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HOUSE BILL 82

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Micaela Lara Cadena

AN ACT

RELATING TO TAXATION; MAKING A GROSS RECEIPTS TAX DEDUCTION FOR
DIALYSIS FACILITIES PERMANENT; AMENDING THE DEFINITION OF
"DIALYSIS FACILITY" IN THE DEDUCTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
Chapter 96, Section 1, as amended by Laws 2021, Chapter 54,
Section 1 and by Laws 2021, Chapter 65, Section 24) is amended
to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL
AND HEALTH CARE SERVICES.--

A. Receipts of a health care practitioner or an
association of health care practitioners from payments by the
United States government or any agency thereof for provision of
medical and other health services by a health care practitioner

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1 or of medical or other health and palliative services by
2 hospices or nursing homes to medicare beneficiaries pursuant to
3 the provisions of Title 18 of the federal Social Security Act
4 may be deducted from gross receipts.

5 B. Receipts of a health care practitioner or an
6 association of health care practitioners from payments by a
7 third-party administrator of the federal TRICARE program for
8 provision of medical and other health services by medical
9 doctors and osteopathic physicians to covered beneficiaries may
10 be deducted from gross receipts.

11 C. Receipts of a health care practitioner or an
12 association of health care practitioners from payments by or on
13 behalf of the Indian health service of the United States
14 department of health and human services for provision of
15 medical and other health services by medical doctors and
16 osteopathic physicians to covered beneficiaries may be deducted
17 from gross receipts.

18 D. Receipts of a clinical laboratory from payments
19 by the United States government or any agency thereof for
20 medical services provided by the clinical laboratory to
21 medicare beneficiaries pursuant to the provisions of Title 18
22 of the federal Social Security Act may be deducted from gross
23 receipts.

24 E. Receipts of a home health agency from payments
25 by the United States government or any agency thereof for

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1 medical, other health and palliative services provided by the
2 home health agency to medicare beneficiaries pursuant to the
3 provisions of Title 18 of the federal Social Security Act may
4 be deducted from gross receipts.

5 F. ~~[Prior to July 1, 2024]~~ Receipts of a dialysis
6 facility from payments by the United States government or any
7 agency thereof for medical and other health services provided
8 by the dialysis facility to medicare beneficiaries pursuant to
9 the provisions of Title 18 of the federal Social Security Act
10 may be deducted from gross receipts.

11 G. A taxpayer allowed a deduction pursuant to this
12 section shall report the amount of the deduction separately in
13 a manner required by the department. A taxpayer who has
14 receipts that are deductible pursuant to this section and
15 Section 7-9-93 NMSA 1978 shall deduct the receipts under this
16 section prior to calculating the receipts that may be deducted
17 pursuant to Section 7-9-93 NMSA 1978.

18 H. The department shall compile an annual report on
19 the deductions created pursuant to this section that shall
20 include the number of taxpayers approved by the department to
21 receive each deduction, the aggregate amount of deductions
22 approved and any other information necessary to evaluate the
23 effectiveness of the deductions. The department shall compile
24 and present the annual reports to the revenue stabilization and
25 tax policy committee and the legislative finance committee with

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1 an analysis of the effectiveness and cost of the deductions and
2 whether the deductions are providing a benefit to the state.

3 I. For the purposes of this section:

4 (1) "association of health care practitioners"
5 means a corporation, unincorporated business entity or other
6 legal entity organized by, owned by or employing one or more
7 health care practitioners; provided that the entity is not:

8 (a) an organization granted exemption
9 from the federal income tax by the United States commissioner
10 of internal revenue as organizations described in Section
11 501(c)(3) of the United States Internal Revenue Code of 1986,
12 as that section may be amended or renumbered; or

13 (b) a health maintenance organization,
14 hospital, hospice, nursing home or an entity that is solely an
15 outpatient facility or intermediate care facility licensed
16 pursuant to the Public Health Act;

17 (2) "clinical laboratory" means a laboratory
18 accredited pursuant to 42 USCA 263a;

19 (3) "dialysis facility" means ~~[an end-stage~~
20 ~~renal disease facility as defined pursuant to 42 C.F.R.~~
21 405.2102] a facility that provides outpatient maintenance
22 dialysis services or home dialysis training and support
23 services, including a facility considered by the federal
24 centers for medicare and medicaid services to be an independent
25 or hospital-based facility that includes a self-care dialysis

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1 unit that furnishes only self-dialysis services;

2 (4) "health care practitioner" means:

3 (a) an athletic trainer licensed
4 pursuant to the Athletic Trainer Practice Act;

5 (b) an audiologist licensed pursuant to
6 the Speech-Language Pathology, Audiology and Hearing Aid
7 Dispensing Practices Act;

8 (c) a chiropractic physician licensed
9 pursuant to the Chiropractic Physician Practice Act;

10 (d) a counselor or therapist
11 practitioner licensed pursuant to the Counseling and Therapy
12 Practice Act;

13 (e) a dentist licensed pursuant to the
14 Dental Health Care Act;

15 (f) a doctor of oriental medicine
16 licensed pursuant to the Acupuncture and Oriental Medicine
17 Practice Act;

18 (g) an independent social worker
19 licensed pursuant to the Social Work Practice Act;

20 (h) a massage therapist licensed
21 pursuant to the Massage Therapy Practice Act;

22 (i) a naprapath licensed pursuant to the
23 Naprapathic Practice Act;

24 (j) a nutritionist or dietitian licensed
25 pursuant to the Nutrition and Dietetics Practice Act;

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1 (k) an occupational therapist licensed
2 pursuant to the Occupational Therapy Act;

3 (l) an optometrist licensed pursuant to
4 the Optometry Act;

5 (m) an osteopathic physician licensed
6 pursuant to the Medical Practice Act;

7 (n) a pharmacist licensed pursuant to
8 the Pharmacy Act;

9 (o) a physical therapist licensed
10 pursuant to the Physical Therapy Act;

11 (p) a physician licensed pursuant to the
12 Medical Practice Act;

13 (q) a podiatrist licensed pursuant to
14 the Podiatry Act;

15 (r) a psychologist licensed pursuant to
16 the Professional Psychologist Act;

17 (s) a radiologic technologist licensed
18 pursuant to the Medical Imaging and Radiation Therapy Health
19 and Safety Act;

20 (t) a registered nurse licensed pursuant
21 to the Nursing Practice Act;

22 (u) a respiratory care practitioner
23 licensed pursuant to the Respiratory Care Act; and

24 (v) a speech-language pathologist
25 licensed pursuant to the Speech-Language Pathology, Audiology

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1 and Hearing Aid Dispensing Practices Act;

2 (5) "home health agency" means a for-profit
3 entity that is licensed by the department of health and
4 certified by the federal centers for medicare and medicaid
5 services as a home health agency and certified to provide
6 medicare services;

7 (6) "hospice" means a for-profit entity
8 licensed by the department of health as a hospice and certified
9 to provide medicare services;

10 (7) "nursing home" means a for-profit entity
11 licensed by the department of health as a nursing home and
12 certified to provide medicare services; and

13 (8) "TRICARE program" means the program
14 defined in 10 U.S.C. 1072(7)."

15 SECTION 2. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2022.

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